IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.2476 OF 2005

Mr.A.S.Khandeparkar i/b Khandeparkar & Associates for the Petitioner.

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions	Court's or Judge's orders
	CORAM: D.K.DESHMUKH, J.
	DATED: 5th October,2005
P.C.:	
	The Appellate court has rightly rejected the application for condonation of delay on the finding that the application was filed with malafide intention. Condonation of delay was sought on the ground that the Appellant was unwell. In support of that claim, a certificate of the doctor was produced. The Plaintiff disputed the fact of illness in his reply, but still no evidence is led to prove the ailment. It is pertinent to note that by the order which was to be

impugned in the appeal all the Defendants were directed to submit undertaking. Defendant No.2 is the son of the present Petitioner. No explanation has been given why the Defendant No.2 did not file appeal against the order, when he was also directed to file an undertaking. Therefore, I find that the appeal court has rightly concluded that the appeal and the application for condonation of delay has been filed with malafide intention to avoid action for disobedience of order of the court which would be initiated by the Plaintiff. In my opinion, the order impugned has done justice between the parties, therefore, calls for no interference at the hands of this Court. Petition is rejected.

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